

## MEETING OF THE BOARD OF EQUALIZATION

APRIL 13, 2010

The Board of Equalization met in regular session on April 13, 2010 at the hour of 5:15 p.m. in the Tom Baker Meeting Room, City and County Office Building, 221 North Fifth Street, Bismarck, North Dakota. There were present: Commissioners Sprynczynatyk, Schwab, Seminary, Grossman and President Warford.

A Chaplain of the Bismarck Police Department presented the invocation.

The Board of Equalization received the 2010 report of the Bismarck Assessing Division.

Debra Goodsell, Acting City Assessor, appeared before the Board of Equalization and presented a summary of the 2010 assessment roll and real estate value and commercial activity up to December 2009. She stated that the 2010 assessment roll total market value is \$4,349,630,600, an increase from the 2009 assessment roll of \$161,741,300 or 3.86%. New construction contributed \$93,708,400 and market value contributed \$43,146,800 with the balance attributed to prorations and changes in assessment. She stated that existing commercial properties increased an average of 1.23%; existing residential properties increased an average of 0.93%. This report is available in the City Assessing Office for review.

Ms. Goodsell said the Assessing Division received an email request on April 9, 2010 from Mr. Nick Hunter, Menard's Tax Representative, to be heard by the City Board of Equalization. Mr. Hunter did email staff information on the income approach but no information on the cost approach, which the Assessing Division uses income, cost and market approaches to value property when available. More detailed information will be needed from Mr. Hunter so the Assessing Division can make a determination of the value to be presented at a later date. The Assessing Division respectfully requests approval of the assessment roll as presented.

Mr. Kevin Lee, a representative for Bernie Weisz, appeared before the Board to protest the taxes assessed on a property in Pebble Creek 8<sup>th</sup> Addition. The Board advised Mr. Lee, and anyone else wishing to make appeals to the City Board of Equalization, that it may be done through the abatement process with the Assessing Division or they may appear before the County Board of Equalization in June 2010.

Commissioner Grossman made a motion to approve the assessment roll as submitted. Commissioner Sprynczynatyk seconded the motion. Upon roll call, the commissioners voted as follows: Ayes: Commissioners Sprynczynatyk, Schwab, Seminary, Grossman and President Warford. Nays: None, the motion carried.

The Board of Equalization adjourned and convened as the Board of City Commissioners.

## MEETING OF THE BOARD OF CITY COMMISSIONERS

APRIL 13, 2010

The Board of City Commissioners met in regular session on April 13, 2010 at the hour of 5:15 p.m. in the Tom Baker Meeting Room, City and County Office Building, 221 North Fifth Street, Bismarck, North Dakota. There were present: Commissioners Sprynczynatyk, Schwab, Seminary, Grossman and President Warford.

President Warford made the following proclamations:

- North Dakota City Government Week (April 12-16, 2010)
- Public Service Recognition Week (May 3-9, 2010)

The Board of City Commissioners considered the approval of the minutes of the regular meeting on March 23, 2010.

Commissioner Seminary made a motion to approve the minutes. Commissioner Grossman seconded the motion. Upon roll call, the commissioners voted as follows: Ayes: Commissioners Sprynczynatyk, Schwab, Seminary, Grossman and President Warford. Nays: None, the motion carried.

### CONSENT AGENDA

The Board of City Commissioners considered and approved the voucher numbers 1002001 to 1002646.

The Board of City Commissioners reviewed the personnel actions.

The Board of City Commissioners considered the application for tax abatement for 2938 Vancouver Lane for Disabled Veteran Credit – 2009: Anthony & Margaret Keel. The City Assessor recommended approval.

The Board of City Commissioners considered the application for exemption of improvements and/or additions to commercial and residential properties from Jim Knudson at 1100 N 4<sup>th</sup> St: basement remodel, added master suite and media room; updated plumbing and electrical systems. The City Assessor recommends approval.

The Board of City Commissioners considered the approval of raffle to be held on November 23, 2010 for the North Dakota Natural Resources Conservation Trust at the Ramkota Hotel.

The Board of City Commissioners considered and called for a public hearing on the request to locate a transfer Class F-1 liquor license at 422 E Main Avenue (dba Peacock Alley Bar & Grill).

The Board of City Commissioners considered the renewal of Class H liquor license for the Missouri Riverboat Inc.

The Board of City Commissioners considered the following committee actions:

- Reappoint Launa Moldenhauer to the Visitor's Committee.
- Appoint Martha Bollin, Troy Roness and Sonvy Sammons to the Human Relations Committee.
- Appoint Bill Daniel and reappoint George Keiser and Kevin Strege to the Vision Fund Committee.
- Appoint Abby Husar and reappoint Darcy Severson, Eunice Meidinger, Robin Werre and Linda Jensen to the Mayor's Committee on Employment of Persons with Disabilities.

The Board of City Commissioners considered approval of agreement and waiver for property located at 421 W Broadway Avenue.

The Board of City Commissioners considered the request from the Finance Department to approve the 2009 Leave Accrual Issue recommendations.

The Board of City Commissioners considered the following requests from Engineering Department:

- Urban Harvest/Capital Farmers Market request to close 4<sup>th</sup> Street between Broadway and Thayer Avenues for six consecutive Thursdays from July 8<sup>th</sup> to August 12<sup>th</sup>, 2010.
- Federation of Families request to place ribbons on light standards in the downtown area in support of Children's Mental Health Awareness Week of May 2<sup>nd</sup> to May 8<sup>th</sup>, 2010.

The Board of City Commissioners considered the following relating to Street Improvement District 421 (sidewalks, rehabilitation of asphaltic concrete pavement, replacement or repair of water mains and sanitary sewer mains):

- Request for Resolution Creating Street Improvement District 421 and Ordering Preparation of Preliminary Engineering Reports.
- Request for Resolution Approving Preliminary Reports and Directing the Preparation of Plans and Specifications.

Commissioner Grossman introduced the following resolution and moved its adoption:

RESOLUTION CREATING STREET IMPROVEMENT DISTRICT  
NUMBER FOUR HUNDRED TWENTY ONE (421) AND ORDERING THE  
PREPARATION OF A PRELIMINARY REPORT

BE IT RESOLVED by the Board of City Commissioners of the City of Bismarck, North Dakota, as follows:

1. Pursuant to the provisions of Chapter 40-22 of the North Dakota Century Code, Street Improvement District Number Four Hundred Twenty One (421) is created for the purpose of making an improvement project, consisting of sidewalks, rehabilitation of asphaltic concrete pavement, replacement or repair of water mains and sanitary sewer mains and related work, and to defray all or a portion of the costs thereof by the levy and collection of special assessments in said District.
2. It is the judgment of this Board of City Commissioners, after consultation with the engineer planning the improvement for the City that construction of the improvement project will specially benefit all of the properties within the district, the size and form of which is defined by reference to the plats of the City of Bismarck on file in the office of the County Recorder of Burleigh County, North Dakota, and the district shall include all lots, tracts and parcels of land lying within the following described boundary:

UNIT NO. 1

LOTS ELEVEN (11) THROUGH THIRTEEN (13), BLOCK SIX (6), EAST VIEW ADDITION; ALL OF ARIZONA COMMERCIAL ADDITION; ALL OF ARIZONA COMMERCIAL SECOND ADDITION; ALL OF EAGLE'S ADDITION; ALL OF EASTDALE ADDITION; ALL OF BOUSTEAD & WALKER'S SUBDIVISION; ALL OF MORNING STAR ADDITION; ALL OF EASTSIDE HEIGHTS ADDITION; ALL OF EASTSIDE HEIGHTS ADDITION REPLAT; ALL OF MORNINGSIDE HEIGHTS ADDITION; ALL OF REPLAT OF BLOCK SIX (6), MORNINGSIDE HEIGHTS ADDITION; ALL OF REPLAT OF BLOCKS SIXTEEN (16), SEVENTEEN (17), AND PART OF ELEVEN (11), MORNINGSIDE HEIGHTS ADDITION; ALL OF REPLAT OF BLOCK TWENTY (20), MORNINGSIDE HEIGHTS ADDITION; ALL OF REPLAT OF LOT TEN (10), BLOCK TWENTY-ONE (21), MORNINGSIDE HEIGHTS ADDITION; ALL OF LOUNSBERRY'S BISMARCK OUTLOTS; ALL OF VISION HEIGHTS SUBDIVISION OF LOUNSBERRY'S BISMARCK OUTLOTS NINE (9) AND TWELVE (12); ALL OF SUBDIVISION OF EAST HALF OF OUTLOT TWENTY-ONE (21) OF LOUNSBERRY'S BISMARCK OUTLOTS; ALL OF CORRECTED PLAT OF THE REPLAT OF LOUNSBERRY'S OUTLOTS SEVENTEEN (17) THROUGH TWENTY (20) AND TWENTY-FOUR (24); ALL OF SUBDIVISION OF OUTLOT TWENTY-FIVE (25) OF LOUNSBERRY'S BISMARCK OUTLOTS; ALL OF REPLAT OF LOUNSBERRY'S OUTLOTS SEVENTEEN (17), EIGHTEEN (18), NINETEEN (19), TWENTY-SIX (26), AND TWENTY-SEVEN (27); BLOCKS NINETEEN (19), TWENTY-TWO (22), TWENTY-SIX (26) THROUGH TWENTY-NINE (29), THIRTY-TWO (32) THROUGH THIRTY-NINE (39), FORTY-THREE (43) THROUGH FIFTY (50), AND FIFTY-FIVE (55) THROUGH FIFTY-EIGHT (58), GOVERNOR PIERCE ADDITION.

3. The engineer is directed to prepare a report as to the general nature, purpose and feasibility of the proposed improvement and an estimate of probable cost of the work.

Commissioner Seminary seconded the motion on the foregoing resolution. Upon roll call, the Commissioners voted as follows. Ayes: Commissioners Sprynczynatyk, Schwab, Seminary, Grossman and President Warford. Nays: None, the motion carried and said resolution was declared duly passed and adopted.

Commissioner Grossman introduced the following resolution and moved its adoption:

RESOLUTION APPROVING PRELIMINARY REPORT AND DIRECTING THE  
PREPARATION OF PLANS AND SPECIFICATIONS FOR  
STREET IMPROVEMENT DISTRICT  
NUMBER FOUR HUNDRED TWENTY ONE (421)

BE IT RESOLVED by the Board of City Commissioners of the City of Bismarck, North Dakota, that this Board has received and considered the report of the engineer as to the general nature, purpose and feasibility of the proposed improvement in and for Street Improvement District Number Four Hundred Twenty One (421), and an estimate of the probable cost of the work, and approved the report and directs it to be filed in the City Administration office and the City Engineer's office, and directs the engineer to prepare detailed plans and specifications for the construction of the improvement and to submit the same to this Board of City Commissioners.

Commissioner Seminary seconded the motion on the foregoing resolution. Upon roll call the Commissioners voted as follows. Ayes: Commissioners Sprynczynatyk, Schwab, Seminary, Grossman and President Warford. Nays: None, the motion carried and said resolution was declared duly passed and adopted.

The Board of City Commissioners considered the request to call for bids for Street Improvement District 427 (asphaltic concrete pavement with curb and gutter, sidewalks, and ADA ramps).

Commissioner Grossman introduced the following resolution and moved its adoption:

RESOLUTION APPROVING PLANS AND SPECIFICATIONS FOR  
STREET IMPROVEMENT DISTRICT NUMBER  
FOUR HUNDRED TWENTY SEVEN (427)

BE IT RESOLVED by the Board of City Commissioners of the City of Bismarck, North Dakota, that the plans and specifications for the work proposed to be done in and for Street Improvement District Number Four Hundred Twenty Seven (427), as prepared by the engineer and presented to the Board of City Commissioners on this date, are hereby approved and ordered to be placed on file in the office of the City Administration and in the office of the City Engineer, where they shall remain on file and subject to inspection by anyone interested therein.

Commissioner Seminary seconded the motion on the foregoing resolution. Upon roll call, the Commissioners voted as follows. Ayes: Commissioners Sprynczynatyk,

Schwab, Seminary, Grossman and President Warford. Nays: None, the motion carried and said resolution was declared duly passed and adopted.

Commissioner Grossman introduced the following resolution and moved its adoption:

RESOLUTION DIRECTING ADVERTISEMENT FOR BIDS FOR  
STREET IMPROVEMENT DISTRICT NUMBER  
FOUR HUNDRED TWENTY SEVEN (427)

BE IT RESOLVED by the Board of City Commissioners of the City of Bismarck, North Dakota, that proposals for the work of making the improvement in Street Improvement District Number Four Hundred Twenty Seven (427), according to plans and specifications heretofore approved by this Board, shall be received on May 11, 2010 at the hour of 3:00 o'clock p.m. Advertisement for such proposals shall be published as required by Section 40-22-19, North Dakota Century Code.

Commissioner Seminary seconded the motion on the foregoing resolution. Upon roll call, the Commissioners voted as follows. Ayes: Commissioners Sprynczynatyk, Schwab, Seminary, Grossman and President Warford. Nays: None, the motion carried and said resolution was declared duly passed and adopted.

The Board of City Commissioners considered the request to create a Resolution of Necessity and call for bids for Street Improvement District 428 (asphaltic concrete pavement with curb and gutter, sidewalks, and ADA ramps).

Commissioner Grossman introduced the following resolution and moved its adoption:

RESOLUTION APPROVING PLANS AND SPECIFICATIONS FOR  
STREET IMPROVEMENT DISTRICT NUMBER  
FOUR HUNDRED TWENTY EIGHT (428)

BE IT RESOLVED by the Board of City Commissioners of the City of Bismarck, North Dakota, that the plans and specifications for the work proposed to be done in and for Street Improvement District Number Four Hundred Twenty Eight (428), as prepared by the engineer and presented to the Board of City Commissioners on this date, are hereby approved and ordered to be placed on file in the office of the City Administration and in the office of the City Engineer, where they shall remain on file and subject to inspection by anyone interested therein.

Commissioner Seminary seconded the motion on the foregoing resolution. Upon roll call, the Commissioners voted as follows. Ayes: Commissioners Sprynczynatyk, Schwab, Seminary, Grossman and President Warford. Nays: None, the motion carried and said resolution was declared duly passed and adopted.

Commissioner Grossman introduced the following resolution and moved its adoption:

RESOLUTION DIRECTING ADVERTISEMENT FOR BIDS FOR  
STREET IMPROVEMENT DISTRICT NUMBER  
FOUR HUNDRED TWENTY EIGHT (428)

BE IT RESOLVED by the Board of City Commissioners of the City of Bismarck, North Dakota, that proposals for the work of making the improvement in Street Improvement District Number Four Hundred Twenty Eight (428), according to plans and specifications heretofore approved by this Board, shall be received on May 11, 2010 at the hour of 3:00 o'clock p.m. Advertisement for such proposals shall be published as required by Section 40-22-19, North Dakota Century Code.

Commissioner Seminary seconded the motion on the foregoing resolution. Upon roll call, the Commissioners voted as follows. Ayes: Commissioners Sprynczynatyk, Schwab, Seminary, Grossman and President Warford. Nays: None, the motion carried and said resolution was declared duly passed and adopted.

Commissioner Grossman introduced the following resolution and moved its adoption:

RESOLUTION OF NECESSITY

RESOLUTION DECLARING THE NECESSITY OF AN IMPROVEMENT IN  
STREET IMPROVEMENT DISTRICT NUMBER  
FOUR HUNDRED TWENTY EIGHT (428)

BE IT RESOLVED by the Board of City Commissioners of the City of Bismarck, North Dakota, as follows:

1. It is hereby found, determined and declared that it is necessary and expedient for the City of Bismarck to construct an improvement in and for Street Improvement District Number Four Hundred Twenty Eight (428), such improvement to consist of asphaltic concrete pavement with curb and gutter, sidewalks, and ADA ramps and related work, for the following areas:

Unit No. 1

Yukon Drive - 200' south of Niagara Drive to 200' north of Calvert Drive  
Niagara Drive - 150' south of Yukon Drive to 100' north of Yukon Drive  
Calvert Drive - 60' east of Yukon Drive

All in accordance with and as described in the resolution creating said district, adopted March 23, 2010, the preliminary report of the engineer, approved by this Board on March 23, 2010, and the plans and specifications for the improvement prepared by the engineer and approved by this Board on April 13, 2010, which are on file in the office of the City Engineer, and subject to inspection by anyone interested therein.

2. The cost of the improvement will be paid for by special assessments to be levied against properties benefited by the improvement in amounts proportionate to and not exceeding such benefits.
3. The Special Assessment Analyst is hereby authorized and directed to cause this resolution, together with a map of the city showing the improvement district, to be published once each week for two consecutive weeks in the official newspaper of the City. The owners of property within said improvement district and liable to be specially assessed for said improvement shall be afforded the opportunity to file written protests with the Special Assessment Analyst at any time within thirty (30) days after the first publication of this resolution. The Board of City Commissioners shall, at its next meeting after the expiration of said period, to-wit, May 25, 2010, at 5:15 p.m. meet at the City Hall for the purpose of hearing and determining the sufficiency of any protests so filed and to take such other and further action with reference to said improvement as may then be deemed necessary and expedient.

Commissioner Seminary seconded the foregoing resolution. Upon roll call, the Commissioners voted as follows. Ayes: Commissioners Sprynczynatyk, Schwab, Seminary, Grossman and President Warford. Nayes: None, the motion carried and said resolution was declared duly passed and adopted.

The Board of City Commissioners considered the request from the Civic Center for sale of surplus vehicle and equipment at City Auction.

The Board of City Commissioners considered the request from Public Works Service Operations Department to trade used motor grader and front end loader tires to OK Tire Store for credit towards tire repairs for Roads and Streets Division of Public Works. This item has been pulled from the agenda.

The Board of City Commissioners considered the following requests from the Public Works Utility Operations Department:

- Approval of Change Order with Reynolds Inc. for the Horizontal Collector Well Project. This is the result of encountering larger than anticipated rocks in the process of sinking the caisson for the horizontal collector well. This caused delays and additional work for the contractor.
- Approval for sole source purchase of spare sludge mixing pump for the Wastewater Plant. The plant staff has recommended purchasing a spare pump identical to the current one so the existing pump can be repaired and used as a back up.

The Board of City Commissioners considered the following requests from the Police Department:

- Authorization to sell surplus, obsolete, and found/abandoned property at the annual Police auction.



- Permission to apply for a Target & BLUE grant in the amount of \$1000.00 for shoplifting prevention education materials.
- Authorization for the Police Youth Bureau to solicit donations for the annual Cops & Kids fishing derby.

The Board of City Commissioners considered the introduction of and called for public hearings on the following:

- Ordinance 5767 relating to zoning change for ETA Phase 10-01.

#### ORDINANCE NO. 5767

AN ORDINANCE TO AMEND AND RE-ENACT SECTION 14-03-02 OF THE 1986 CODE OF ORDINANCES, OF THE CITY OF BISMARCK, NORTH DAKOTA, AS AMENDED, RELATING TO THE BOUNDARIES OF ZONING DISTRICTS.

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF BISMARCK, NORTH DAKOTA:

Section 1. Amendment. Section 14-03-02 of the Code of Ordinances of the City of Bismarck, North Dakota is hereby amended to read as follows:

The following described unplatted property in Burnt Creek Township (T140N-R80W) shall be excluded from the County A-Agricultural zoning district and included in the City A-Agricultural zoning district:

The S½ of the NE¼ and the unplatted portion of the SE¼ of the NW¼ of Section 30, Burnt Creek Township.

Section 2. Amendment. Section 14-03-02 of the Code of Ordinances of the City of Bismarck, North Dakota is hereby amended to read as follows:

The following described unplatted property in Riverview Township (T140N-R81W) shall be excluded from the County A-Agricultural zoning district and included in the City A-Agricultural zoning district:

The SE¼ of the SE¼ of Section 34, and the NE¼ of the NE¼, the SE¼ of the NW¼, and the NW¼ of the SW¼ of Section 35, Riverview Township.

Section 3. Amendment. Section 14-03-02 of the Code of Ordinances of the City of Bismarck, North Dakota is hereby amended to read as follows:

The following described platted property shall be excluded from the County R1-Country Homes Residential zoning district and included in the City RR-Residential District zoning district:

Lots 2-5, Block 6 and Lots 5-8, Block 14, Ponderosa Riverside Village Subdivision; Lots 1-10, Block 15 and Lots 1-7, Block 16 and Lots 9-11, Block 17, Ponderosa Riverside Village 2<sup>nd</sup> Subdivision; Lot 1, Block 1, Ponderosa Village 4<sup>th</sup> Subdivision; Lot 1, Block 1, Ponderosa Village 5<sup>th</sup> Subdivision; Lots 1-2, Block 1, Ponderosa Village 7<sup>th</sup> Subdivision; and Lot 1, Block 2, Paris Place 2<sup>nd</sup> Subdivision.

Section 4. Repeal. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

Section 5. Taking Effect. This ordinance shall take effect upon final passage, adoption and publication.

\* \* \* \* \*

- Ordinance 5768 relating to Zoning Ordinance Text Amendment relating to the HM Medical Facility District.

#### ORDINANCE NO. 5768

AN ORDINANCE TO AMEND AND RE-ENACT SECTION 14-04-09 OF THE BISMARCK CODE OF ORDINANCES (REV.) RELATING TO THE HM MEDICAL FACILITY DISTRICT.

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF BISMARCK, NORTH DAKOTA:

Section 1. Amendment. Section 14-04-09 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to the HM Medical Facility District is hereby amended and re-enacted to read as follows:

14-04-09. HM Medical Facility District.

\* \* \* \* \*

7. Front yard. ~~For any use in this district there shall be no less than a fifteen-foot setback, except as may be allowed under provisions of subsection 6(b) of these district regulations.~~ There is no minimum front yard setback, unless the property is immediately adjacent to a residentially-zoned property, in which case the minimum front yard setback shall be fifteen (15) feet.

8. Side yards. A lot on which is erected a residential structure shall have two (2) side yards, one on each side of the principal building. The sum width of the two (2) side yards shall not be less than twenty (20) per cent of the average width of the lot. In no case shall the side yard be less than six (6) feet. On any lot on which the principal building is designed and used for nonresidential use, no

side yards shall be required except where such lot is located adjacent to a residential district in which case that side adjoining such residential district shall comply with the side yard requirement of such residential district. Commercial buildings of wood and unprotected metal shall have side yards, complying with the requirements of the city building code, Chapter 4-02 of the Code of Ordinances of the City of Bismarck. ~~In no case shall a structure be located less than fifteen (15) feet from any street on a corner lot.~~ All side yards are subject to variance under provisions of subsection 6(b) of this district regulation.

\* \* \* \* \*

Section 2. Severability. If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 3. Effective Date. This ordinance shall take effect following final passage and adoption.

The Board of City Commissioners considered the request from the Community Development Department to release sanitary sewer easements in Lots 9-10, Block 5 and to release utility easements in Lot 1A of Lot 1, Lot 2B of Lot 2 and Lot 3, Block 6, North Hills Thirteenth Addition, requested by The Coleman Group and the City of Bismarck.

RESOLUTION  
RELEASE OF SANITARY SEWER EASEMENT IN LOTS 9 & 10, BLOCK 5  
AND RELEASE OF UTILITY EASEMENTS IN LOT 1A OF LOT 1, LOT 2B OF LOT 2,  
AND LOT 3, BLOCK 6 NORTH HILLS 13<sup>TH</sup> ADDITION

WHEREAS, a petition has been filed by the owner of property and the City of Bismarck for the release of a sanitary sewer easement in Lots 9 & 10, Block 5, and for the release of utility easements in Lot 1A of Lot 1, Lot 2B of Lot 2, and Lot 3, Block 6, North Hills 13<sup>th</sup> Addition, Bismarck, North Dakota, and

WHEREAS, the sanitary sewer for which the sanitary sewer easement was granted has since been abandoned in place and the easement is no longer needed by the City of Bismarck; and

WHEREAS, the utilities for which the utility easements were granted have filed consent with the City of Bismarck, and

NOW, THEREFORE, BE IT RESOLVED by the Board of City Commissioners of the City of Bismarck, North Dakota, a municipal corporation, that the request to release the interior 40-foot wide sanitary sewer easement across Lots 9 and 10, Block 5, North Hills 13<sup>th</sup> Addition, as shown on the attached Exhibit A, is in all things allowed and granted.

BE IT FURTHER RESOLVED by the Board of City Commissioners of the City of Bismarck, North Dakota, a municipal corporation, that the request to release the utility easements across the northern portion of Lot 1A of Lot 1, Block 6, less the northerly 7 feet thereof, the utility easement running east-west across parts of Lot 3 and Lot 2B of Lot 2, Block 6, and the west 30 feet of the utility easement over the east 40 feet of Lot 3, Block 6, less the northerly 10 feet thereof, is in all things allowed and granted.

BE IT FURTHER RESOLVED that the County Recorder of Burleigh County, North Dakota is hereby authorized and directed to release the easement of record in her office.

Adopted this 13<sup>th</sup> day of April, 2010.

Commissioner Grossman made a motion to approve the consent agenda. Commissioner Seminary seconded the motion. Upon roll call, the commissioners voted as follows: Ayes: Commissioners Sprynczynatyk, Schwab, Seminary, Grossman and President Warford. Nays: None, the motion carried.

#### REGULAR AGENDA

The Board of City Commissioners considered the request from Steve Mariner, on behalf of Apple Creek LLP, to appeal Planning and Zoning Commission decision to deny the final plat and zoning change of Country View Estates (formerly Golf View Estates). The Community Development Department is recommending to continue this item to the April 27, 2010 City Commission meeting based on an agreement between Apple Creek LLP and staff.

Commissioner Grossman made a motion to approve the request. Commissioner Seminary seconded the motion. Upon roll call, the commissioners voted as follows: Ayes: Commissioners Sprynczynatyk, Schwab, Seminary, Grossman and President Warford. Nays: None, the motion carried.

The Board of City Commissioners considered the request from the Missouri Valley Coalition for Homeless People, Inc (MVCHP) and the Bismarck-Mandan 10-Year Plan to End Long Term Homelessness to present the Annual Report for 2010.

Tina Grumbo, Executive Director of the Missouri Valley Coalition for Homeless People, Inc. appeared before the board and presented the Annual Report for 2010. She highlighted some of the goals of the Otto Bremer Foundation grant that is the primary source of funding:

- Increase the membership of the MVCHP by 10 percent.
  - From 2008-2009, membership with the Coalition increased 100 percent from 23 to 46 members. Currently for 2010, the membership is at 28 with the target to grow to a membership of 50 by the end of the year.

- Enhanced public awareness, including support by the City Commission.
- Single Point of Entry Program. The Bismarck-Mandan 10-Year Plan is the only plan with an active Single Point of Entry program currently.
- Creation of a community crisis response plan to provide shelter during extreme weather.

Ms. Grumbo said future goals include:

- Establish task force.
- Collect base-line data and costs analyses on the crisis and unscheduled use of services (emergency rooms, jails, psychiatric units, etc) by long-term homeless in our community.
- A major year one goal will include securing of additional cash and in-kind resources to allow the MVHCP to continue on with the effort to eradicate long-term homelessness by December of 2017.
  - The most vital component of the securing of additional resources is through the continued fund of the current staff position. The Otto Bremer Foundation grant is tiered, and as of 2011 will be entering 50 percent funding; a match of the remaining 50 percent to continue to support this position will be required.

The report from the State Homeless Coalition will be out the beginning of May. They are indicating a slight decrease in rate of the rise of homelessness across the entire State. However, we are seeing a double digit increase of homelessness for the second year in a row, including Bismarck-Mandan (part of Region 7). There are significant increases in all categories of homeless, including children. This increase is not due to the service providers; it is based on many factors including the economy, people moving into the North Dakota from other states, etc.

Ms. Grumbo said that if the budget wouldn't allow an increase in the amount budgeted to assist them, they could certainly accept in-kind donations, such as use of the Bismarck Civic Center for 10 Year Plan Events such as Pack the Civic Center and Project Homeless Connect.

Commissioner Grossman asked about what our community can do about the issues at hand, especially regarding the homelessness of children. Ms. Grumbo said the community is in desperate need of a family emergency shelter. Ms. Grumbo invited members of the Commission to their coalition meetings to discuss things with service providers.

Commissioner Schwab asked if these goals are attainable. Ms. Grumbo believes that with continued funding they will be. Schwab also asked about the population of high school students that become homeless every spring. Ms. Grumbo said most of this population doesn't believe they are homeless because they "couch-surf" going from house to house. She said they try to engage them and get them assistance through the single point of entry program. Commissioner Sprynczynatyk suggested possibly adding the homelessness issue as a portfolio assignment in the future.

The Board received the report and took no action.

The Board of City Commissioners considered the recommendation to approve lease of portion of NPCC Building and Rail Yard.

Mains Crane USA has agreed to lease a portion of the office, shop and 1/2 acre of the rail yard; the combined annual rental for the three separate areas is \$44,232. The lease will have an initial term lasting until December 31, 2010 with the potential for three additional one year terms. In addition, Mains Crane USA will provide material handling services at the NPCC Transload Facility through a separate agreement with Mallory Alexander International Logistics.

Commissioner Sprynczynatyk made a motion to approve the recommendation. Commissioner Seminary seconded the motion. Upon roll call, the commissioners voted as follows: Ayes: Commissioners Sprynczynatyk, Schwab, Seminary, Grossman and President Warford. Nays: None, the motion carried.

The Board of City Commissioners considered the following from the HUD Grant Program.

- Consider amendment to 2009 CDBG Program to fund renovation of AARC office facility.

Sue Redman, Planner, appeared before the Board. She explained that by doing this amendment, they can use the funding previously allocated for a different project plus some unspent funds, to help the AARC make some emergency repairs to their office. The AARC had enough funds to repair the leaky roof but not enough funds to fix the interior damage caused by the leaky roof.

Commissioner Schwab made a motion to approve the request. Commissioner Grossman seconded the motion. Upon roll call, the commissioners voted as follows: Ayes: Commissioners Sprynczynatyk, Schwab, Seminary, Grossman and President Warford. Nays: None, the motion carried.

- Consider re-allocation of \$125,000 in 2010 HOME Program funds as follows:
  - \$1,500 to Missouri Valley Habitat for Humanity
  - \$102,000 to Community Works for AARC housing project
  - De-obligate \$21,500 to Community Action for a security deposit program

Commissioner Schwab made a motion to approve the request. Commissioner Grossman seconded the motion. Upon roll call, the commissioners voted as follows: Ayes: Commissioners Sprynczynatyk, Schwab, Seminary, Grossman and President Warford. Nays: None, the motion carried.

The Board of City Commissioners received the final flood briefing from the Bismarck Emergency Manager.

Gary Stockert, Bismarck Emergency Manager, appeared before the Board to give his final flood briefing for the year. He said the lessons we learned during the 2009 flood were applied this year, ranging from mapping to public information. He thanked Burleigh County for the joint City/County flood planning meetings that took place. He stated that as we continue moving forward with the emergency management program, the focus of most emergency preparedness efforts have an "all hazards" focus. Flood preparedness information will remain on the City's website.

The Board received the report and took no action.

The Board of City Commissioners considered the following requests from the Civic Center:

- Change scope of carpet replacement project for the Exhibit Hall.

Charlie Jeske, Civic Center Manager, stated they budgeted \$400,000 for carpet replacement of the lower and upper concourses of the exhibit hall, all upper level meeting rooms, including the conference room, and room 106 located between the exhibit hall and arena as well as carpeting the walkways during trade shows. Staff believes undertaking carpeting the walkways would be a financial burden and would cause storage problems.

They have received an estimate of \$195,857 to carpet the areas mentioned previously. They are estimating it will cost \$58,458 to wallpaper the upper and lower concourses, all meeting room, including the conference room and room 106 (behind the glass will not be wallpapered).

Commissioner Schwab made a motion to approve the request. Commissioner Seminary seconded the motion. Upon roll call, the commissioners voted as follows: Ayes: Commissioners Sprynczynatyk, Schwab, Seminary, Grossman and President Warford. Nays: None, the motion carried.

- Approve third party stagehand-rigger vendor contract.

Charlie Jeske, Civic Center Manager, asked for approval of contract with HB Sound and Lights as their sole source provider for stagehands and riggers. They are asking for the contract to run through December 31, 2012 with a two year option to renew.

Commissioner Grossman made a motion to approve the request. Commissioner Seminary seconded the motion. Upon roll call, the commissioners voted as follows: Ayes: Commissioners Sprynczynatyk, Schwab, Seminary, Grossman and President Warford. Nays: None, the motion carried.

The Board of City Commissioners considered the following from the Public Works Service Operations Department:

- Discussion of street maintenance.

Jeff Heintz, Public Works Service Operations Director, said to date they have applied 116 tons of pothole mix to over 300 miles of city streets, costing \$13,328.42 in expenditures. Averaging 50 pounds per pot hole, over 4,640 potholes have been filled since March 1, 2010. Two pothole crews were working during the day. On the busy streets, they had one crew working midnight until 8 a.m. They first concentrated on the emergency routes and then moved on to the major arterial routes. Filling potholes is an ongoing process; they fill potholes all year long. Bismarck Expressway is one of the worst streets in town for potholes.

Hard surface street reconstruction over the last few years has been very successful. They are going to do a larger area this year providing the areas aren't protested by the residents. Those streets were initially gravel roads that have been built up into semi-asphalt using rock, tar and oil over the years.

Also they will be going back to the hot pour oil crack sealing and hope to be doing that more frequently. They were doing a rubber crack sealing but the conditions had to be just right; there could be no water in it.

Ground water problems under city streets continue to be a problem that needs to be corrected in the future. Failing pavement year after year, soft spots and other problems areas include Gateway, Interstate and Continental Avenues as well as Buckskin, Senator and Governor Lanes. The Engineering Department is studying these areas and coming back to the Commission with recommendations on how to correct those problems. They are designing roads smarter to withstand treatments being placed on top.

Commissioner Sprynczynatyk said that pavement management issues are a big deal and as a city we have to stay on top of it. Cost of materials has increased 80% over the last several years. Mr. Heintz said the Engineering Department has been providing a pavement management system. Roads are prioritized according to the most work and that we get the most benefit from. Treatments being done are prolonging the life of our city streets. Commissioners Seminary and Sprynczynatyk both said that streets are a big issue with the citizens especially when it comes to special assessments. Seminary said that the volume of cars on our roads and the varied weather over the last few years, really affects the roads of our city.

Commissioner Schwab asked about if we are going to continue to have breaks on the water main underneath Bismarck Expressway. Mr. Heintz deferred to Keith Demke, Public Works Utility Operations Director. Mr. Demke said that the area along Bismarck Expressway has been a problem over the last couple of years and they are looking at how to repair that. Construction methods are drastically different today that they were when the water main was installed.



- Request permission to purchase pothole patch asphalt (Omega Mix) on an as needed basis forgoing the \$15,000 city formal bidding process until formal bids are awarded on April 23, 2010.

Mr. Heintz is requesting permission to purchase the pothole patching material on an as needed basis from a single source, Northern Improvement Company, forgoing the fifteen thousand dollar formal bidding process purchasing requirement until April 27<sup>th</sup>, 2010. At the April 27<sup>th</sup> commission meeting, the Board will award the bid for pavement materials for the remainder of the 2010 pavement repair season thru March 31, 2011. This pavement materials bid award will have a competitive bid price to provide the pothole patching asphalt in bulk and in fifty pound bag until March 31, 2011, at which time a new bid price for the summer 2011 and early 2012 pothole season will be sought.

Commissioner Seminary made a motion to approve the request. Commissioner Grossman seconded the motion. Upon roll call, the commissioners voted as follows: Ayes: Commissioners Sprynczynatyk, Schwab, Seminary, Grossman and President Warford. Nays: None, the motion carried.

- Request permission to award contract for the installation of high pressure sodium luminaries to begin the CIP replacement program of Mercury Vapor street light heads.

Jeff Heintz, Public Works Service Operations Director, appeared before the Board and presented the bids received to provide & install HPS Luminaires:

	DON'S ELECTRIC, INC.	EDLING ELECTRIC, INC.	SKEELS ELECTRIC CO.	MAGNUM ELECTRIC, INC
BASE BID: Provide & Install 150W HPS Luminaire – EACH	\$171.63	\$162.35	\$180.00	\$134.46
BASE BID: Provide & Install 150W HPS Luminaire - 400	\$68,652.00	\$64,940.00	\$72,000.00	\$53,784.00
ALTERNATE BID: Install 150W HPS Luminaire – EACH	\$46.75	\$39.46	\$53.10	\$46.21
ALTERNATE BID: Install 150W HPS Luminaire – 400	\$18,700.00	\$15,784.00	\$21,240.00	\$18,484.00

The combined provide and install bids received are recommended to be rejected by the commission since the separate bids to provide and install were less expensive for the

city than the combined bid. Mr. Heintz said the low bid by Magnum Electric, Inc to provide and install was withdrawn by them due to an error in their labor calculation for installation.

Commissioner Seminary made a motion to approve the withdrawal of apparent low bid by Magnum Electric. Commissioner Grossman seconded the motion. Upon roll call, the commissioners voted as follows: Ayes: Commissioners Sprynczynatyk, Schwab, Seminary, Grossman and President Warford. Nays: None, the motion carried.

The Public Works Street Light/Traffic Signal division recommends award of contract for the installation of 400 High Pressure Sodium luminaries on existing Mercury Vapor circuits to Edling Electric in the amount of \$15,784.00 (\$39.46 to install each luminaire).

Commissioner Seminary made a motion to award the installation bid to Edling Electric. Commissioner Grossman seconded the motion. Upon roll call, the commissioners voted as follows: Ayes: Commissioners Sprynczynatyk, Schwab, Seminary, Grossman and President Warford. Nays: None, the motion carried.

- Request permission to purchase four hundred 150 watt High Pressure Sodium street light luminaries to begin the replacement program of Mercury Vapor street light heads outlined in the 2010 CIP – Mercury Vapor Phase-out.

Jeff Heintz, Public Works Service Operations Director, appeared before the Board and presented the bids received to provide HPS Luminaires:

	BORDER STATES ELECTRIC	DAKOTA SUPPLY GROUP	GRAYBAR ELECTRIC	WESCO DISTRIBUTION
Provide 150W HPS Luminaire - EACH	\$120.00		\$114.60	\$113.99
Provide 150W HPS Luminaire - 400	\$48,000.00		\$45,840.00	\$45,596.00

Staff reviewed the bids and determined that the best and lowest bid is from Wesco Distribution in the amount of \$113.99 per luminaire.

Commissioner Sprynczynatyk made a motion to award the bid to Wesco Distribution. Commissioner Grossman seconded the motion. Upon roll call, the commissioners voted as follows: Ayes: Commissioners Sprynczynatyk, Schwab, Seminary, Grossman and President Warford. Nays: None, the motion carried.

- Request permission to adjust the disposal rates for recycling electronics and lighting fixtures and bulbs by commercial and non-residential customers.

Jeff Heintz, Public Works Service Operations Director, asked that the Commission consider charging \$0.22/lb for electronics to be disposed of by commercial and non-residential accounts to meet our new Renaissance Recycling contract price.

The bid price for disposal of lighting fixtures and bulbs for 2010 from Renaissance Recycling is:

- \$0.50/ Fluorescent lamp less than 4 ft in length, a reduction from the 2009 price of \$1.05/lamp.
- \$0.75/ Fluorescent lamp 5 ft and over, a reduction from the 2009 price of \$1.55/lamp.
- \$0.50/ U-Shaped and Circular Fluorescent lamps, an increase from the 2009 price of \$0.43.
- \$1.25/ High Intensity Discharge Lamps, an increase from the 2009 price of \$0.84.
- \$1.00/ Compact Fluorescent lamps with ballasts, an increase from the 2009 price of \$0.52.
- \$0.75/ PCB Ballast, an increase from the 2009 price of \$0.52.
- \$0.40/ Non PCB Ballast
- \$1.50/ PCB Capacitor, an increase from the 2009 price of \$1.30.

He also requested that the new fees for lighting fixtures and bulbs also be changed to reflect the 2010 contract bid prices for commercial and non-residential disposal customers.

Commissioner Grossman made a motion to approve the request. Commissioner Sprynczynatyk seconded the motion. Upon roll call, the commissioners voted as follows: Ayes: Commissioners Sprynczynatyk, Schwab, Seminary, Grossman and President Warford. Nays: None, the motion carried.

- Award architect/engineering contract to develop roof repair construction documents for the Civic Center, Belle Mehus, South Side Fire Station #2 and Public Health buildings.

Jeff Heintz, Public Works Service Operations Director, stated that eight firms submitted proposals for review by the selection committee. The selection committee recommended that Rhodes and Associates, P.C. be selected to enter into contract negotiations for this project.

The specified compensation amount will be the maximum contract amount (\$120,900.00), which will not be exceeded unless authorized by the Board of City Commissioners. He requested that Rhodes and Associates, P.C. be secured under contract to provide the City of Bismarck construction documents for roof repairs on the listed projects. The contract would provide for design, preparation of bid documents, bidding and construction administration.

#### Budget Information

Belle Mehus	\$90,000.00
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Public Health Center	\$119,700.00
South Fire Station #2	\$85,500.00
Civic Center	
Exhibit Hall	\$560,700.00
Civic Center	\$157,500.00
<b>Total Budget Information</b>	<b><u>\$1,013,400.00</u></b>

Commissioner Grossman made a motion to approve the request. Commissioner Seminary seconded the motion. Upon roll call, the commissioners voted as follows: Ayes: Commissioners Sprynczynatyk, Schwab, Seminary, Grossman and President Warford. Nays: None, the motion carried.

The Board of City Commissioners considered the recommendation of Vision Fund Committee to fund BMDA Annual Operation request for 2010 as follows:

\$330,328.00	New funds
\$99,317.00	Carryover of unspent revenues
<u>\$5,500.00</u>	Bismarck Industries dividends
\$435,145.00	Total

Commissioner Grossman made a motion to approve the request. Commissioner Sprynczynatyk seconded the motion. Upon roll call, the commissioners voted as follows: Ayes: Commissioners Sprynczynatyk, Schwab, Seminary, Grossman and President Warford. Nays: None, the motion carried.

#### Addendum

- Consider request from Public Works Utility Operations to waive load restrictions.

Keith Demke, Public Works Utility Operations, asked to temporarily waive the load restrictions on the unnamed access road between Memorial Highway and Riverside Park Road, commonly known as "A & W Road" and a short section of Riverside Park Road to get to the access road under the new Veteran's Memorial Bridge. This will allow the contractor on the horizontal collector well project to pour the concrete cap in the bottom of the well caisson.

The pour will require about 100 cubic yards of concrete (10 full truckloads) and needs to be completed as a continuous pour. Without this waiver the contractor would need to reduce the amount of concrete per load and would require about 25 truckloads, a longer workday, and could jeopardize the quality of the pour. Damage that occurs from this work will be the responsibility of the contractor to repair.

Commissioner Schwab made a motion to approve the request. Commissioner Seminary seconded the motion. Upon roll call, the commissioners voted as follows: Ayes: Commissioners Sprynczynatyk, Schwab, Seminary, Grossman and President Warford. Nays: None, the motion carried.

- Consider request from the Police Department to receive and consider disposition of bids for the reception area remodel project.

Keith Witt, Police Chief, appeared before the Board and presented the bids received to remodel the Police Departments reception area:

<b>Company</b>	<b>Bid Amount</b>	<b>Comment</b>
Belden Construction	\$16,916.00	Contractor did not bid custom casework per specifications or request a substitution and/or alternate prior to bidding
Capital City Construction	\$18,700.00	None
Dakota West Contracting	\$18,800.00	None
Professional Contractors	\$22,900.00	None

Staff recommends the bid be awarded to the Capital City Construction for \$18,700.00. Commissioner Grossman made a motion to award the bid to Capital City Construction. Commissioner Seminary seconded the motion. Upon roll call, the commissioners voted as follows: Ayes: Commissioners Sprynczynatyk, Schwab, Seminary, Grossman and President Warford. Nays: None, the motion carried.

The Board of City Commissioners considered the ongoing project agenda.

The Board took no action.

#### EXECUTIVE SESSION:

Commissioner Grossman made a motion to go into executive session. Commissioner Seminary seconded the motion. Upon roll call, the commissioners voted as follows: Ayes: Commissioners Sprynczynatyk, Schwab, Seminary, Grossman and President Warford. Nays: None, the motion carried.

The Board of City Commissioners considered the request from the Civic Center to go into executive session under NDCC Section 44-04-19.2 to discuss contract negotiation for prospective Civic Center entertainment pursuant to NDCC Section 44-04-19.1(9).

Commissioner Grossman made a motion to come out of executive session. Commissioner Sprynczynatyk seconded the motion. Upon roll call, the commissioners voted as follows: Ayes: Commissioners Sprynczynatyk, Schwab, Seminary, Grossman and President Warford. Nays: None, the motion carried.

The Board reconvened.

Commissioner Grossman made a motion to approve the Civic Center requests to negotiate for prospective Civic Center entertainment. Commissioner Schwab seconded the motion. Upon roll call, the commissioners voted as follows: Ayes: Commissioners

Sprynczynatyk, Schwab, Seminary, Grossman and President Warford. Naves: None, the motion carried.

Having completed the items on the agenda, President Warford asked if there was any further business for this meeting. There being none, the meeting was declared adjourned at 6:44 pm.